

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

JUSTIN DUFOE, on Behalf of Himself and All  
Others Similarly Situated,

Plaintiff,

v.

DRAFTKINGS INC., JASON D. ROBINS,  
JASON K. PARK, and MATTHEW KALISH,

Defendants.

Case No. 23-cv-10524-DJC

**CLASS ACTION**

**NOTICE OF LACK OF OPPOSITION TO JUSTIN DUFOE'S MOTION FOR  
APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL OF LEAD COUNSEL**

Justin Dufoe (“Dufoe”) submits this Notice to inform the Court that his motion for appointment as Lead Plaintiff and approval of Lead Counsel filed on May 8, 2023 (Dkt. No. 22, the “Motion”) is not opposed. Only one other movant filed a competing motion. *See* Dkt. No. 25. However, on May 19, 2023, the competing movant filed a notice that he does not oppose Dufoe’s Motion. *See* Dkt. No. 28.

The deadline to file any opposition to Dufoe’s Motion was May 22, 2023. The deadline passed, and no opposition to Dufoe’s Motion was filed. Accordingly, Dufoe’s Motion is unopposed.

As demonstrated in the Motion, Dufoe is the “most adequate plaintiff” under the PSLRA and should be appointed Lead Plaintiff. Specifically, Dufoe has the “largest financial interest” as the sole surviving movant. Dufoe satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure because his claims are typical of other Class members’ claims and because he will fairly and adequately represent the interests of the Class. Finally, Dufoe’s chosen counsel, Kirby McInerney LLP, is highly experienced in securities litigation and should be appointed Lead Counsel.

For the foregoing reasons, as well as for the reasons stated in his Motion, Dufoe respectfully requests that the Court enter the proposed order (Dkt. No. 22): (i) appointing Movant as Lead Plaintiff on behalf of a class consisting of all persons other than Defendants who purchased or otherwise acquired DraftKings’ NFTs during the class period, between August 11, 2021 and March 9, 2023, inclusive; (ii) approving Movant’s selection of the law firms of Kirby McInerney LLP as Lead Counsel for the Class and Berman Tabacco as Local Counsel for the Class; and (iii) granting such other and further relief as the Court may deem just and proper.

Dated: May 22, 2023

Respectfully submitted,

**BERMAN TABACCO**

/s/ Patrick T. Egan

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*Proposed Local Counsel for*

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*Additional Counsel for*

*Proposed Lead Plaintiff Dufoe*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2023, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court's CM/ECF system.

/s/ Patrick T. Egan  
Patrick T. Egan